



Planning

***ROYAL NEWCASTLE HOSPITAL  
SITE – STAGES 1A/1B  
Proposed by Mirvac Projects Pty  
Limited***

***MP07\_0133 MOD 3***

Modification of Minister's Approval  
Section 75W of the  
Environmental Planning and Assessment  
Act 1979

September 2009

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NSW Department of Planning  
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## 1. INTRODUCTION

On 7 September 2009, Mirvac Projects Pty Limited (the Proponent) lodged an application to modify MP07\_0133 pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* ("the Act"). The Proponent seeks to modify the plans and make certain amendments to the Conditions of Approval.

## 2. ORIGINAL APPLICATION

On 9 July 2008, the Minister for Planning approved the Major Project for the construction of Stages 1A & 1B (combined total of 8,475 m<sup>2</sup>) of the former Royal Newcastle Hospital (RNH) Concept Plan (MP05\_0062). The site is located in Newcastle East on land fronting Shortland Esplanade, Church Street and King Street, in the Newcastle Local Government Area.



**Figure 1 (top):** Location of site in context with Newcastle CBD.

**Figure 2 (bottom):** Staging plan.

MP07\_0133 granted consent to the development described in detail below:

- Mixed use residential, retail and hotel development comprising 146 residential apartments, 89 hotel suites and 1430m<sup>2</sup> of retail floor space in three buildings including:
  - 1 x part 5, part 6 and part 8 storey building overlooking Shortland Esplanade and Newcastle Beach and incorporating residential and retail uses (Building 1);
  - 1 x 8 storey residential and retail building overlooking a new plaza and new extension to King Street (Building 2);
  - 1 x 16 storey building incorporating studio apartments, a hotel and conference facility and retail uses (Building 3);
  - Public domain improvements incorporating a publicly accessible plaza and through site links, one from Pacific Street and one from King Street and both connecting to Shortland Esplanade and Fletcher Park / Newcastle Beach; and
  - 2 levels of basement car parking for 366 cars.

The original project has a Capital Investment Value (CIV) of **\$89.7million** and will create **250 full time** equivalent construction jobs and **100 full time** equivalent operational jobs.

### 3. SITE CHRONOLOGY

- On 3 January 2007, the Minister approved a Concept Plan for the mixed use redevelopment of the former RNH site (MP 05\_0062).
- On 9 July 2008, the Minister approved MP07\_0133 for redevelopment of the north east corner of the site (Stage 1A/1B).
- On 22 December 2008, the Executive Director Strategic Sites and Urban Renewal, as delegate of the Minister for Planning, approved MP07\_0133 MOD 1, which included a number of changes including the installation of a gas powered generator to serve the hotel's requirements, a series of minor changes to each of the three approved buildings that did not involve changes to the approved Gross Floor Area, and amendments to a number of Conditions of Approval.
- On 13 August 2009, the Executive Director Major Projects Assessments, as delegate of the Minister for Planning, approved MP07\_0133 MOD 2, which included the conversion of 11 x 3 bedroom units into 11 x 2 bed units and 11 x studio/1bed units, minor changes to building facades and paving on the deck, relocation of substation and changes to condition E12 to allow staged occupation.
- On 7 September 2009, the Proponent submitted an application to further modify MP07\_0133.
- On 14 September 2009, the Proponent submitted additional information.
- On 17 September 2009, the Proponent submitted further justification for carparking allocation.

### 4. STATUTORY CONTEXT

#### Modification of a Minister's approval

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including *revoking or varying a condition of the approval or imposing an additional condition of the approval.*

The Minister's approval for a modification is not required if the project as modified would be consistent with the existing approval under this Part. In this instance, the proposed modification is consistent with the existing approval granted under Part 3A as it would not

result in any change to net Gross Floor Area or the public domain and would result in only minor changes to building facades. An Architectural Design Statement prepared by Tzannes Associates submitted with the Application indicates that the modified development would remain consistent with *State Environmental Planning Policy No.65 – Design of Residential Flat Buildings*.

### Environmental Assessment requirements

In this instance, it was not considered necessary to notify the Proponent of environmental assessment requirements pursuant to Section 75W(3) with respect to the proposed modification as sufficient information was provided to the Department to consider the application.

## 5. CONSULTATION AND EXHIBITION

Under Section 75W of the Act, a request for a modification of an approval does not require public exhibition. However, under Section 75X(2)(f) of the Act, the Director-General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the request for the modification was placed on the Department's website.

## 6. DESCRIPTION AND CONSIDERATION OF PROPOSED MODIFICATIONS

The modifications are described in a letter from the Proponent dated 28 August 2009 and supporting documentation including amended drawings, revised BASIX Certificate and a State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP 65) - Design Verification Statement prepared by Alexander Tzannes of Tzannes Associates Architects.

The modifications include a change to the approved dwelling mix resulting in an additional 10 dwellings, minor amendments to the strata subdivision approval, and some changes to conditions. No changes to the height or total GFA are proposed. The architectural plans are attached. (TAG B)

This modification seeks approval for the following amendments to the approved Major Project:

	Modification Requested	Supported
<i>Dwelling Mix</i>	Change to dwelling mix resulting in an additional 10 units. Carparking remains unchanged at 366 spaces.	Yes
<i>Design Changes</i>	Louvre Screen in front of Unit 32 of building 1. New Privacy Blades on northern façade of Level 1-5 in Building 2, extension to louvers of units 13, 14 and 30 in building 1.	Yes
<i>Conditions of approval:</i>		
<i>A2- Development in Accordance with Documents</i>	Update documents to reflect modifications.	Yes
<i>B3- BASIX Certificate requirements</i>	Update BASIX Certificate No.	Yes
<i>B9- Number of parking Spaces</i>	Specify the allocation of number of car parking spaces	Yes
<i>E9- Car parking allocation</i>	Reword condition	Yes

### Dwelling Mix

The addition of 10 units is achieved through the conversion of 5x3 bedroom apartments into 10x1 bedroom apartments and 5x studio apartments on levels 1-5 of building 2. The proposed modification would increase the total number of units from 157-167. The table below illustrates the change in dwelling mix: ✓

Units	Original Approval	MOD 2	MOD 3
Studio	6	6	13 (+7)
1 bedroom	16	27 (+11)	35 (+8)
2 bedroom	46	57 (+11)	57
3 bedroom	78	67 (-11)	62 (-5)
<b>TOTAL</b>	<b>146</b>	<b>157 (+11)</b>	<b>167 (+10)</b>

The resultant mix across the site will be 37.1% (3 bed), 34.1% (2 bed) and 21% (1 bed) and 7.8% (studio), which is considered to be an acceptable outcome and responds to current market demand.

An amended BASIX certificate has been submitted with this application demonstrating that the proposed modifications comply with the BASIX SEPP.

### S.94A Contributions

Levies within Council's S.94A Plan for the subject site are based on construction cost. The Proponent has advised the Department via letter dated 12 August 2009 that the proposal would not increase the cost of carrying out development. Therefore additional S.94 contributions would not be required. In the case of the current proposed modification there will be no further net increase to the cost of carrying out development. The Proponent's arguments can be summarised as follows:

- GFA and building envelope <sup>change</sup> remain unchanged;
- Does not the car parking basement areas.
- Smaller apartments have less expensive materials to maintain their affordability; and

On this basis, the Department is satisfied that additional S.94 contributions would not be required.

### Car parking

Despite the changes to dwelling mix, the total number of car spaces would remain at 366. This figure exceeds the requirements of the Newcastle DCP 2005 for sites within the city centre by 67 spaces. Given that approval was granted prior to the current carparking controls, there are no objections on these grounds.

As a result of the proposed modification, each apartment would have a minimum of 1 parking space allocated, with the exception of up to 40% (a total of 19) of the studio and 1 bedroom apartments which would require no parking provision. This outcome complies with the objectives and average rates prescribed within the DCP.

Based on average car parking rates within the DCP, the modification proposes an allocation shortfall of parking spaces for visitor, commercial, retail and hotel uses, and a surplus of parking spaces for the residential units.

It is considered reasonable in this case to allow the proposed allocation of parking based on both the Proponent's arguments and also the consistency of the proposal as modified with the objectives of the Newcastle DCP 2005 for sites within the city centre.

### Design/Layout changes

The proposed modification includes:

- minor architectural changes to the façade of building 2 to reflect the 10 additional apartments;
- louvre screening in front of unit 32 (adjoins Shortland Esplanade) to increase the privacy of the unit occupants;
- additional shades and privacy blades are proposed between the newly created units on the northern façade of Level 1-5 Building 2;
- minor changes to the floor layout in the hotel building to improve functionality and to maximise the efficient use of space;
- The King Street stairs have been modified to avoid planter boxes higher than 1m (and balustrade). A single handrail will be provided in the middle of the stairs only; and
- The service road to the substation has been modified to suit Energy Australia vehicles.

A total of 4 of the 10 new one bedroom apartments have been provided without a balcony. This constitutes 5.4% of the total apartments. The SEPP 65 Design Verification Statement submitted with the modification argues that this will be satisfactory as the apartments would receive good solar access (being east facing), good ventilation, benefit from communal open space at the ground floor consisting of private landscaped gardens, and enjoy the use of the adjacent beach and parks. It further argues that the impact of providing a balcony to these five apartments would be inconsistent with the composition of the façade.

The Proponent also advises that the non-provision of balconies should be supported for the following reasons:

- The number of apartments without balconies is offset by the generous size of other balconies;
- Construction is well advanced on building 2. Retrofitting balconies would cost \$23k per balcony, which outweighs the market value of balconies;
- Other balcony designs such as steel are considered to be inappropriate given the proximity to the ocean;
- Recessed balconies would reduce the floor area of each apartment and receive little sun;
- The absence of balconies provides a greater number of affordable housing options;
- The total number of apartments without balconies constitutes 5% of the overall number of apartments;
- Balconies off units 88, 90, 92 and 94 would provide a poor level of amenity due to their outlook and orientation;
- The absence of balconies will not adversely affect the external design of building 2; and
- Future occupiers would be aware of the absence prior to purchase/leasing.

The SEPP 65 Design Verification Statement submitted with this modification concludes that the proposed modifications will ensure that the architectural integrity of the original design is maintained.

The proposed changes are considered acceptable given the relatively minor nature of the exterior design changes and the small number of apartments to be provided without balconies.

Proposed amendments to original Conditions of Approval

Existing Approval	Requested Amendment	Department's Response	Supported													
<p><b>Condition B9 (as approved)</b></p> <p><b>B9 Number of Parking Spaces</b></p> <p>The maximum number of parking spaces to be provided for the development is 366 spaces. Details confirming the parking numbers and allocation for each use/disabled users shall be submitted to the satisfaction of the Certifying Authority in accordance with the Newcastle DCP 2005 prior to the issue of a Construction Certificate.</p>	<p>Modification Application requests that the following table be inserted as part of condition B9 to reflect the distribution of the car parking spaces. Consequently deleting reference to Newcastle DCP 2005. The amended condition is as follows:</p> <p><b>B9 Number of Parking Spaces</b></p> <p>The maximum number of parking spaces to be provided for the development is 366 spaces. Details confirming the parking numbers and allocation for each use/disabled users shall be submitted to the satisfaction of the Certifying Authority in accordance with the following table <del>Newcastle DCP 2005</del> prior to the issue of a Construction Certificate:</p>	<p><b>Comment</b></p> <p>Amended condition supported as there is no change to the overall number of spaces provided.</p>	<p>Yes</p>													
	<table><tr><td><b>Land use</b></td><td><b>No.</b></td></tr><tr><td>Residential units</td><td>245</td></tr><tr><td>Residential Visitor</td><td>30</td></tr><tr><td>Commercial &amp; Retail</td><td>14</td></tr><tr><td>Hotel</td><td>77</td></tr><tr><td><b>TOTAL</b></td><td><b>366</b></td></tr></table>			<b>Land use</b>	<b>No.</b>	Residential units	245	Residential Visitor	30	Commercial & Retail	14	Hotel	77	<b>TOTAL</b>	<b>366</b>	
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<p><b><u>Condition E9 (as approved)</u></b></p> <p><b>E9 Car parking allocation</b></p> <p><i>Parking spaces shall be allocated in accordance with Condition B9 of this consent. A minimum of 1 space shall be allocated for each residential unit. Visitor units shall be held as common property for use by visitors to the residential units, and no leasing or timed parking fees shall be permitted for these spaces.</i></p>	<p>Modification application requests that the condition be amended to be inline with the objectives of the Newcastle DCP 2005. The amended condition is as follows:</p> <p><b>E9 Car parking allocation</b></p> <p><i>Parking spaces shall be allocated in accordance with Condition B9 of this consent. A minimum of 1 space shall be allocated for each residential unit, <b><u>with the exception of studio and 1 bedroom units of which up to 40% (ie a maximum of 19 studio/1bed units) may be provided with no resident car space.</u></b> Visitor units <b><u>spaces</u></b> shall be held as common property for use by visitors to the residential units, and no leasing or timed parking fees shall be permitted for these spaces.</i></p>	<p><b><u>Comment</u></b></p> <p>The amended condition is supported as it allows the car parking provisions to be more consistent with the objectives of the Newcastle DCP 2005 for sites in the city centre.</p>	<p>Yes</p>
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## 7. MODIFICATION TO CONDITIONS OF APPROVAL

The Department recommends that the conditions of approval be amended in accordance with Section 6 above and be incorporated in the consolidated conditions of consent.

## 8. CONCLUSION

The proposed modifications are generally minor in detail and do not result in significant changes to the overall design and appearance nor to the GFA or maximum approved height. Further, the Project Approval as modified remains consistent with the Concept Plan Approval (MP05\_0062). It is considered that the proposal, as modified, is consistent with the approved development and still achieves the same objectives as assessed for the original approval under Major Project 07\_0133. The proposed modification does not alter the overall nature, need or justification of the approved project, but allows for a greater variety of more affordable dwellings in the Newcastle LGA.

## 9. DELEGATION

Under the instrument of delegation dated 4 March 2009, the Minister has delegated her functions under Section 75W of the Act relating to modifying Part 3A approvals to the Executive Director, Major Projects Assessment. Having regard to the Instrument of Delegation, it is considered appropriate that the application be determined under delegation by the Executive Director, Major Projects Assessment.

## 10. RECOMMENDATION

It is recommended that the Executive Director, Major Projects Assessment, as delegate of the Minister for Planning:

- (A) **consider** the findings and recommendations of this report;
- (B) **approve** the modification, subject to conditions, under Section 75W of the *Environmental Planning and Assessment Act, 1979*; and
- (C) **signs** the attached Instrument of Modification (**Tag A**).

Prepared By:



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Endorsed By:



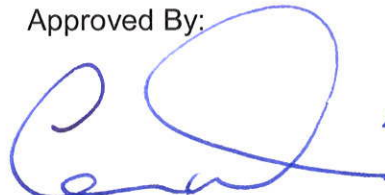
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